

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GABRIEL S QUINTANILLA,
Plaintiff

-vs-

KILOLO KIJAKAZI, COMMISSIONER
OF SOCIAL SECURITY;
Defendant

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SA-23-CV-00148-XR

ORDER

On this date, the Court considered Plaintiff's unopposed Motion for Attorney's Fees filed on August 14, 2024. ECF No. 12. Because Plaintiff, as a prevailing party, is entitled to an award of fees incurred in prosecuting this action, and Defendant does not oppose an award of attorney's fees, *see id.*, the Court **GRANTS** the motion.

On May 16, 2023, Magistrate Judge Farrer granted Defendant's Unopposed Motion to Remand for further administrative proceedings under sentence six of 42 U.S.C. § 405(g). ECF No. 7. Plaintiff secured a fully favorable decision on remand (ECF No. 8) and this Court entered final judgment. ECF No. 11. Under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, Plaintiff timely requested that Defendant reimburse the attorney's fees and costs he incurred in achieving this result. ECF Nos. 12, 13. Defendant does not oppose the propriety of such an award or the amount claimed for attorney's fees. *Id.*

An award of attorney's fees under 28 U.S.C. § 2412 is to be based on the prevailing market rate for the kind and quality of the services furnished, not in excess of \$125 per hour, unless the Court determines "that an increase in the cost of living or a special factor . . . justifies a higher fee." 28 U.S.C. § 2412(d)(2)(A). Plaintiff seeks attorney's fees at an hourly rate of \$243.13 for work performed in 2023 and \$249.32 for work performed in 2024, based on the Consumer Price

Index from the Bureau of Labor and Statistics. *See* ECF No. 13. The Court finds that the increases from \$125 per hour are justified. *See Bode v. United States*, 919 F.2d 1044, 1053 n.8 (5th Cir.1990) (approving courts' use of the CPI-U in making cost-of-living adjustments). Plaintiff also seeks fees for work performed by a paralegal at an hourly rate of \$100 per hour. The Court finds that this rate is appropriate. *See Nkenglefac v. Garland*, 64 F.4th 251, 256 (approving rate of \$100/hr for paralegals).

Plaintiff seeks attorney's fees for 2.9 attorney hours (1.9 hours in 2023 and 1 hour in 2024) and paralegal fees for 4.2 hours, for a total of \$1,131.27. *See* ECF No. 13. Plaintiff has sufficiently demonstrated that the number of hours claimed compensation is reasonable and necessary in this case. Nor does Defendant oppose the requested amount of attorney's fees. ECF No. 12.

It is therefore **ORDERED** that Plaintiff's Motion for Attorney's Fees (ECF No. 12) is **GRANTED**.

IT IS HEREBY ORDERED that attorney fees and expenses in the amount of One Thousand One Hundred and Thirty-One Dollars and Twenty-Seven Cents (\$1,131.27) under the Equal Access to Justice Act, 28 U.S.C. § 2412(d) are awarded to Plaintiff.

If the U.S. Department of the Treasury determines that Plaintiff's EAJA fees, expenses, and costs are not subject to total offset allowed under the Department of the Treasury's Offset Program ("TOPS"), then the check for EAJA fees, expenses, and costs shall be made payable to Plaintiff and mailed to Plaintiff's attorney, Howard D. Olinsky, at 250 South Clinton Street, Suite 210 Syracuse, New York 13202.

It is so **ORDERED**.

SIGNED this 11th day of September, 2024.

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a horizontal stroke.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE